

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

WILLIAM BYRNES, CHRISTOPHER CURTIN,
THE NEW YORK MERCANTILE EXCHANGE,
INC. and RON EIBSCHUTZ,

Defendants.

No. 13 Civ. 1174 (VSB)

ECF Case

**NOTICE OF MOTION FOR
PARTIAL SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that upon the Memorandum of Law In Support of Motion for Partial Summary Judgment, Statement of Undisputed Facts pursuant to Local Rule 56.1, Declaration of Trevor Kokal dated December 15, 2016, and the separately bound Exhibits thereto, portions of which will be filed under seal and with redactions upon obtaining leave from the Court, Plaintiff U.S. Commodity Futures Trading Commission respectfully will move this Court, at the Thurgood Marshall United States Courthouse, Southern District of New York, 40 Foley Square, New York, New York, on such date and time designated by the Court, for an order granting partial summary judgment to Plaintiff as to liability against all Defendants, pursuant to Rule 56 of the Federal Rules of Civil Procedure, as follows:

With respect to the disclosures set forth in Plaintiff's Statement of Undisputed Facts pursuant to Local Rule 56.1, Plaintiff seeks an Order finding that, as to each such disclosure, (i) Defendants William Byrnes ("Byrnes") and Christopher Curtin ("Curtin") are liable for violating Section 9(e)(1) of the Commodity Exchange Act (the "Act") and Commission Regulation 1.59(d)(1)(ii); (ii) Defendant Ron Eibschutz is liable under Section 13(a) of the Act for aiding and abetting Byrnes and Curtin's violations; and (iii) Defendant New York Mercantile

Exchange, Inc. (“NYMEX”) is vicariously liable for Byrnes and Curtin’s violations under Section 2(a)(1)(B) of the Act.

PLEASE TAKE FURTHER NOTICE that pursuant to the schedule set by the Court, any opposition to this motion and papers in support of such opposition shall be served on or before February 15, 2017, and replies are to be served on or before March 17, 2017.

Dated: December 15, 2016

U.S. COMMODITY FUTURES
TRADING COMMISSION

By: /s/ Patryk J. Chudy
Patryk J. Chudy, Esq. (pchudy@cftc.gov)
Patrick Daly, Esq. (pdaly@cftc.gov)
David W. MacGregor, Esq. (dmacgregor@cftc.gov)
James Wheaton, Esq. (jwheaton@cftc.gov)

Division of Enforcement
140 Broadway, 19th Floor
New York, New York 10005

Phone: (646) 746-9700
Fax: (646) 746-9740